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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,141	09/29/2003	Wesley Erhart	16086RRUS01U (22171.367)	2489
27683	7590	01/10/2008	EXAMINER	
HAYNES AND BOONE, LLP 901 Main Street Suite 3100 Dallas, TX 75202			AL AUBAIDI, RASHA S	
			ART UNIT	PAPER NUMBER
			2614	
			MAIL DATE	DELIVERY MODE
			01/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/674,141

Applicant(s)

ERHART, WESLEY

Examiner

Rasha S. AL-Aubaidi

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                     |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                         | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/24/2006</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizell et al. Patent Application Publication Pub. No.: 2003/0125013).

Regarding claim 1, Mizell teaches a method for transmission over packet networks [see abstract], the method comprising: detecting, at a first node [may read on node 30, 0030], at least one next node [may read on node 20-21, see 0030]; creating a channel between the first node and the at least one next node [the channels reads on the arrows between the nodes 21, 30 and 20 as shown in Fig. 1]; receiving, at the first node, a first packet [0014]; detecting a protocol of the first packet [reads on the data protocol supported by MTS 100, 0031]; merging the first packet with a second packet of the same protocol as the first packet [see 0031, lines 1-6 and 0033];

Mizell does not specifically teach "transmitting the merged first packet and second packet to the at least one next node via the channel".

However, Mizell shows that the received packets as shown in Fig. 4 will be combined in order to get authenticated in steps 500 of Fig. 6 and step 530 in Fig. 7.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to transmit the merged packets, since the merged packets provide an enhanced VOIP quality.

Claims 10 and 15 are rejected for the same reasons as discussed above with respect to claim 1. The claimed "interface" reads on the interface within the first node [0014]. The claimed "processor" and "port" are inherent in the Mizell's network.

Regarding claims 2-3 and 14, Mizell teaches the first and the second packet contains circuit-based information [see abstract, also packets obviously should contain circuits information].

Regarding claim 4, Mizell teaches determining whether available bandwidth exceeds a predetermined threshold [0010].

Regarding claims 5 and 7, this limitation is obvious because one of an ordinary skill in the art may choose the threshold to be at any desired level. One can set the threshold to be the minimum quality. Other can choose the threshold to be the

maximum quality.

Regarding claim 6, Mizell teaches rejecting a communication related to the first packet.

For claim 8, Mizell teaches the node is an existing media gateway [see 0003].

For claim 9, Mizell teaches node is connected to a circuit-switched voice network [see Fig. 1].

For claims 11-13, see Fig. 1.

### ***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Rasha S. Al-Aubaidi', with a long horizontal flourish extending to the right.

RASHA S. AL-AUBAIDI  
PRIMARY EXAMINER

**Art Unit 2642**  
**1/04/2008**